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NEW YORK GUN LEGISLATION

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You asked for a summary of the recently enacted gun legislation in New York and how it compares to Connecticut law.

SUMMARY

On January 15, 2013, New York Governor Andrew Cuomo signed into law the NY Secure Ammunition and Firearms Enforcement (SAFE) Act of 2013 (S 2230). Among other things, the act:

1. expands the ban on assault weapons and large capacity ammunition magazines;
2. creates a statewide firearm license and record database and requires the Division of Criminal Justice to check pending license applications and periodically check granted licenses against criminal conviction, mental health, and other records necessary to determine a person's eligibility for a license;
3. beginning January 15, 2014, requires the State Police to recertify a license every five years;
4. requires background checks for all gun sales, extending the requirement to all private sales;

5. expands the circumstances when a gun license must be denied or revoked for mental health reasons;
6. requires mental health professionals to report patients who are likely to seriously harm themselves or others, and in turn, requires such patients' gun licenses to be revoked and guns turned in or removed by law enforcement;
7. expands the state's involuntary outpatient treatment laws for people with mental illness; and
8. expands and increases penalties for a number of crimes involving guns, including carrying a weapon on school property.

The sections below describe the main provisions of the New York legislation and Connecticut law on each topic. We do not describe all provisions in detail. If you would like additional information, please let us know. A full copy of the New York legislation is available at: <http://open.nysenate.gov/legislation/bill/S2230-2013>. For more information on Connecticut's gun laws, see OLR Report [2013-R-0001](#).

ASSAULT WEAPONS

New York Legislation

The act expands the types of weapons banned as assault weapons. It does so primarily by replacing a "two feature" test with a "one feature" test. The "two-feature" test banned a semi-automatic gun that had at least two of the listed features and, if a rifle or pistol, a detachable magazine. The "one-feature" test only requires the gun to have one of the listed features. The act also adds to the list of features that can qualify a gun as an assault weapon, designates revolving cylinder shotguns as assault weapons, and eliminates a list of specific assault weapon models (presumably these weapons are covered within the new definition of an assault weapon). Certain weapons, such as antique weapons, are excluded.

Under the act, assault weapons possessed before September 14, 1994 (which were previously exempt from the assault weapon ban) and those legally possessed before the act's enactment that are now banned as assault weapons, must be registered with the State Police within one year. The State Police must determine if a person is prohibited from possessing firearms (with the check limited in certain ways). A person must be recertified every five years and failure to do so revokes the registration. Failure to register within the deadline is a class A

misdemeanor but someone who unknowingly fails to register must receive a notice and 30 days to apply for registration. The act requires the State Police to develop a website to explain which weapons are illegal.

Current owners of these banned weapons may transfer the weapons only to an authorized person or out of state buyer. A violation is a class A misdemeanor, punishable by up to one year in prison, a fine of up to \$1,000, or both (§§ 37 and 48).

Connecticut Law

Connecticut law defines an “assault weapon” as (1) any selective-fire firearm capable of fully automatic, semiautomatic, or burst fire at the user’s option; (2) any of a list of named firearms; or (3) any unlisted semi-automatic rifle or pistol that can accept a detachable magazine and has at least two of specified features; or (4) a part or combination of parts designed or intended to convert a firearm into an assault weapon (CGS § [53-202a](#)).

By law, with limited exceptions, it is illegal for anyone to (1) possess assault weapons, unless he or she possessed the weapon before October 1, 1993, registered it with the Department of Emergency Services and Public Protection (DESPP) before October 1, 1994, and received a DESPP certificate of possession for it, or (2) sell, give, transfer, distribute, or transport assault weapons (CGS §§ [53-202b](#) and [53-202d](#)). Illegal possession of an assault weapon is a class D felony (punishable by up to five years in prison, a fine of up to \$5,000, or both), with a mandatory minimum one-year prison term. A first-time violation is a class A misdemeanor (punishable by up to one year in prison, a fine of up to \$2,000, or both) if the violator can prove that he or she possessed the weapon before October 1, 1993 and otherwise complies with the law (CGS § [53-202c](#)). Illegally transferring or carrying an assault weapon is a class C felony (punishable by up to 10 years in prison, a fine of up to \$10,000, or both), with a two-year mandatory minimum or, in the case of transfers to people under age 18, an additional six-year mandatory minimum (CGS § [53-202b](#)).

One may dispose of a registered assault weapon by transferring it to a licensed gun dealer or, after making arrangements to relinquish it, a police department or DESPP, following guidelines for transporting assault weapons (CGS §§ [53-202d\(b\)](#) and [53-202e](#)).

AMMUNITION

New York Legislation

Ban. The act extends the ban on large capacity magazines that have the capacity to hold more than 10 rounds of ammunition to include those magazines manufactured before September 14, 1994 (they were previously exempt from the ban). The act creates a new ban on magazines that hold more than seven rounds of ammunition. Magazines that can hold more than seven but no more than 10 rounds that are possessed before the ban are grandfathered, but may only contain seven rounds. The ban excludes large capacity magazines that are curios or relics (§ 38).

Regulating Sales. The act requires sellers of ammunition to (1) register with the State Police; (2) verify a person's identity and conduct a state background check to confirm the person's eligibility to possess ammunition under state and federal law prior to a sale of ammunition to someone other than a firearms dealer (this requirement begins 30 days after the background check system is certified as operational for this purpose); and (3) indicate completion of the sale in the state database (this record is maintained for one year and is available to law enforcement but is not a public record). Licensed firearm dealers selling ammunition must also follow these procedures but need not register.

The act prohibits the commercial transfer of ammunition unless a licensed firearm dealer or registered seller of ammunition conducts a background check and the transfer occurs in person. Sellers must keep a record book with information on the buyer and ammunition sold in each transaction which is open to inspection by law enforcement but is not a public record (§§ 39 and 50).

It is unclear but the act appears to allow a person to transfer ammunition that was previously legally possessed but made illegal by the act to anyone for one year. After one year, transfers are only allowed to an authorized purchaser or out-of-state entity (§§ 37 and 48).

Criminal Penalties. The act creates a crime for knowingly possessing a large capacity ammunition feeding device that was previously exempt from the ban but is now illegal under the act (devices manufactured before September 13, 1994 with a capacity or capable of conversion to accept more than 10 rounds). A person is not guilty of this crime if he or she has a reasonable belief that a device is lawful and surrenders or disposes of it within 30 days of notice by law enforcement or licensing officials that it is illegal. The crime is a class A misdemeanor.

It also creates a crime for knowingly possessing an ammunition feeding device that was legally possessed before the act's effective date and has a capacity or can be converted to accept more than seven but less than 10 rounds, when it contains more than seven rounds. If possessed within the person's home, a first offense is a fine of \$200 and a second offense is a class B misdemeanor with a \$200 fine and up to three months in prison. If possessed in any other location, a first offense is a class B misdemeanor punishable by a \$200 fine and up to six months in prison and a second offense is a class A misdemeanor.

The act provides that it is not criminal to possess certain magazines with more than seven rounds but with capacity of up to 10 at certain firing ranges and shooting competitions (§§ 46 and 46-a).

Connecticut Law

The law does not regulate ammunition except for banning armor-piercing .50 caliber bullets or incendiary .50 caliber bullets (CGS § [53-202i](#)). With limited exceptions, anyone who knowingly distributes, transports, brings into the state, or gives, sells, or offers to sell the prohibited ammunition to anyone is guilty of a class A misdemeanor for a first violation and a class D felony for a subsequent violation (see OLR Report [2012-R-390](#)).

LICENSING AND RECORD DATABASE

New York Legislation

The act creates a statewide license and record database for licenses to carry, possess, dispose of, or repair firearms. It requires the Division of Criminal Justice to check pending license applications and periodically check granted licenses against criminal conviction, mental health, and other records necessary to determine that a person is eligible for a license. The records are not public records.

The act requires courts, if they only transmit certain records to the FBI, to also transmit them to the Division of Criminal Justice to allow checks of the database. The records relate to individuals for whom a guardian is appointed due to a determination that the person lacks the mental capacity to contract or manage his or her affairs due to marked subnormal intelligence, mental illness, incapacity, condition, or disease.

The act requires mental health records that are currently sent for federal background checks to also be sent to the state Division of Criminal Justice Services, for determining a person's eligibility for a gun license (§§ 18-19 and 49).

The act requires firearms dealers to transmit transaction information for inclusion in the database electronically, with few exceptions, and the information is not subject to disclosure (§ 48).

Connecticut Law

It is unclear how Connecticut's database compares to the one required by New York legislation. We will continue to gather information on this topic.

LICENSES, DENIALS, AND RECERTIFICATION

New York Legislation

The act expands the reasons that a person can be denied a firearms license or a license renewal. It prohibits issuing or renewing a license for someone who:

1. is a fugitive from justice;
2. is an unlawful user of or addicted to a controlled substance;
3. is an alien not legally or lawfully in the U.S. or here with a nonimmigrant visa;
4. was dishonorably discharged from the armed forces;
5. renounces U.S. citizenship;
6. has been involuntarily committed for specified reasons (e.g., someone committed for mental health reasons under a medical certification or a defendant committed because he or she was found unfit to stand trial);
7. is a sex offender who has been civilly confined in a secure treatment facility; or

8. has a guardian appointed for him or her under state law based on a determination that he or she does not have the mental capacity to contract or manage his or her affairs as a result of marked subnormal intelligence, mental illness, incapacity, condition, or disease (§ 48).

The act specifies that when any licensee becomes ineligible for a license, it operates as a revocation.

When someone's license is revoked, he or she must surrender the license and any firearms, rifles, or shotguns he or she possesses to law enforcement and, if not surrendered, they can be removed by police.

The act additionally:

1. requires the revocation of a firearm license from and the surrender of any guns possessed by a defendant upon entry of a verdict or plea of not responsible by reason of mental disease or defect or a finding that a defendant is an incapacitated person (§ 1),
2. requires a sentencing judge to demand surrender of a gun license or registration and all guns possessed by the defendant upon conviction of an offense that requires the seizure of a gun and the revocation of a gun license or registration (§ 2), and
3. expands the circumstances requiring the suspension or revocation of a firearms license and surrender of firearms of a person against whom an order of protection or a temporary order of protection has been issued (§§ 4-15).

License Recertification. Beginning January 15, 2014, the State Police must recertify a license every five years. All licenses issued before January 15, 2014 must be recertified by the licensee by January 31, 2018 and the State Police must notify all who have not recertified at least one year before that date. The failure to recertify a license operates as a revocation (§ 48).

Confidentiality of License Holder Information. The act also allows a license holder to apply, for specific reasons, to make his or her name and address exempt from disclosure as a public record. Previously, this information was considered public.

Connecticut Law

People Barred From Possessing Handguns or Getting

Credentials. State law bars certain categories of people from acquiring, possessing, or carrying handguns or getting the credentials to acquire, possess, or carry them (CGS §§ [53a-217c](#), [29-28\(b\)](#), and [29-36f](#)). It requires gun owners to surrender their handguns to DESPP or transfer them to someone eligible after the occurrence of any event that makes them ineligible to possess handguns or other firearms. People who become ineligible because they are the subject of a restraining or protective order may transfer the firearms only to licensed gun dealers (CGS § [29-36k](#)). Illegal possession of a handgun is a class D felony (CGS § [53a-217c](#)).

Illegal aliens are prohibited from possessing handguns or getting the credentials, as is anyone:

1. discharged from custody in the preceding 20 years after a finding of not guilty of a crime by reason of mental disease or defect;
2. confined by the probate court to a mental hospital in the 12 months before applying for a permit or certificate;
3. convicted of a serious juvenile offense (CGS § [46b-120\(10\)](#));
4. who knows that he or she is the subject to a firearm seizure order issued after notice and a hearing;
5. prohibited by federal law from possessing or shipping firearms because he or she was adjudicated as a “mental defective” or committed to a mental institution (except in cases where the U.S. Treasury Department grants relief from this disability);
6. under a protective or restraining order for using or threatening to use force and, in the case of possession, he or she knows about the order and if the order was issued in-state, he or she was notified and given a hearing opportunity; or
7. convicted of any felony or specified misdemeanors (CGS §§ [29-28](#), [29-36f](#), and [53a-217c](#)).

Revocation. The DESPP commissioner can revoke a handgun permit for cause and must revoke it on conviction of one of the felonies or misdemeanors listed above that bars a person from possessing a handgun or any event that disqualifies the holder from possessing one. Failure to surrender a permit within five days of notice of its revocation is a class C misdemeanor (CGS § 29-32).

Renewal. In Connecticut, a handgun permit and an eligibility certificate to buy or get handguns is valid for five years and renewable (CGS §§ [29-30](#) and [29-36h](#)).

Confidentiality of Gun Permit and Certificate Information. The name and address of anyone issued a gun permit, gun dealer's permit, or eligibility certificate are exempt from disclosure under the Freedom of Information Act. The information is disclosable only to (1) law enforcement officials performing their duties, including employees of the U.S. Probation Office carrying out their duties; (2) handgun transferors seeking to verify the validity of gun permits or eligibility certificates, to the extent necessary; and (3) the mental health and addiction services commissioner to carry out specified statutes (CGS §§ [29-28\(d\)](#), as amended by PA [12-177](#), & [17a-500](#)).

PRIVATE SALES

New York Legislation

The act requires background checks for all gun sales. This extends the background check requirement to all private sellers, who may transfer a gun only if the buyer has obtained a federal background check through a dealer, unless the transaction involves immediate family members. Dealers must maintain records of private sale background checks but they are not considered public records. A knowing violation of this provision is a class A misdemeanor.

Connecticut Law

Under state law, gun dealers and private sellers of handguns must conduct background checks on buyers (CGS § [29-33](#)). Except perhaps at gun shows, state law does not regulate private sales and transfer of long guns. The gun show provision is unclear. The law requires people selling or otherwise transferring firearms at gun shows to comply with CGS § [29-36l](#) (CGS § [29-37g\(c\)](#)). But CGS § [29-36l](#) contains procedures for verifying eligibility of people seeking to buy (1) handguns from anyone and anywhere in the state and (2) long guns from gun dealers anywhere in the state. It does not appear to apply to people buying long guns from

private sellers at gun shows. Thus, it is unclear if private sellers of long guns at gun shows would have to seek DESPP authorization for sales or transfers and whether such buyers have to undergo criminal history record checks.

MENTAL HEALTH PROFESSIONALS' DUTY TO REPORT LIKELY DANGEROUS PATIENTS

New York Legislation

The act requires specified mental health professionals, in the exercise of reasonable professional judgment, to report if an individual they are treating is likely to engage in conduct that will cause serious harm to himself or herself or others. The requirement applies to physicians, psychologists, registered nurses, and licensed clinical social workers. A mental health professional's reasonable and good faith decision about whether to report cannot be a basis for any criminal or civil liability.

The report must be made as soon as practicable, to the appropriate director of community services or his or her designee; if the director or designee agrees that the person is likely to engage in such conduct, the director or designee must report to the Division of Criminal Justice Services. The information reported to the division includes only the person's name and other non-clinical identifying information, and can only be used to determine whether the person (1) possesses a gun license that should be suspended or revoked, (2) is ineligible for such a license, or (3) is no longer permitted under state or federal law to possess a firearm (§ 20).

After such a report is made to the Division of Criminal Justice Services, the division must determine whether the person has a gun license. If so, the division must notify the local licensing official, who must suspend or revoke the license. The person must then surrender the license and any firearms he or she possesses. If he or she fails to do so, the police must remove any such weapons (§ 48).

Connecticut Law

Connecticut statutes allow, but do not require, psychologists, psychiatrists, marital and family therapists, social workers, and licensed professional counselors to disclose otherwise confidential patient information when they believe a serious risk of imminent personal injury to third parties exists. Mental health professionals may face civil liability under common law if they fail to warn an identifiable victim of an imminent physical threat. For more information, see OLR Report [2010-R-0024](#).

COURT-ORDERED ASSISTED OUTPATIENT TREATMENT

New York Legislation

In New York, Kendra's Law allows courts to order involuntary outpatient treatment for certain individuals with mental illness who, when considering their treatment history and current circumstances, are unlikely to safely survive in the community without supervision.

The act extends Kendra's Law through June 30, 2017 (§ 54). (The law was previously set to sunset on June 30, 2015.) The act also makes other changes to Kendra's Law and related mental health laws. For example, the act:

1. extends the maximum duration of the initial assisted outpatient treatment order from 6 months to one year (§ 23);
2. requires directors of community services for the county where the person resides, before the expiration of the assisted outpatient treatment order, to review whether the person continues to meet the criteria for such treatment (under existing law and the act, the director may petition the court to order continued treatment) (§ 23);
3. provides for notification to a county's director of community services when someone ordered to receive assisted outpatient treatment moves to that county (§§ 21-22); and

4. requires the Office of Mental Hygiene (OMH) to conduct an assisted outpatient treatment assessment when a prisoner is being discharged to the community from an OMH hospital; if the person meets the criteria for such treatment, the hospital director must petition for an outpatient treatment order or report to the local director of community services for where the person is expected to live (§ 3).

Connecticut Law

Connecticut law does not allow courts to order involuntary outpatient treatment for people with untreated mental illness. For more information, see OLR Report [2011-R-0438](#).

SAFE STORAGE OF FIREARMS

New York Legislation

The act requires a gun owner who lives with someone whom the owner knows or has reason to know is prohibited from possessing a gun for specified reasons, when the gun is out of the owner's immediate control, to (1) keep it securely stored in a safe or other secure container meeting certain requirements or (2) render it incapable of being fired by putting a safety lock on it. A gun owner who fails to do so commits a class A misdemeanor.

These requirements apply if the person is ineligible to possess a gun because he or she (1) has been convicted of a crime punishable by a term of imprisonment exceeding one year, (2) has been adjudicated mentally defective or committed to a mental institution, (3) is subject to a court order of protection meeting specified requirements, or (4) has been convicted of a misdemeanor crime of domestic violence. For purposes of (4), the ineligible person must have been convicted or completed the sentence within the previous five years.

These storage provisions apply to rifles, shotguns, and firearms (§ 47).

Connecticut Law

Connecticut law does not contain comparable provisions on gun storage regarding an ineligible person living with a gun owner. Connecticut law does provide storage requirements for gun owners if a minor under age 16 is likely to gain access to the guns without a parent's or guardian's permission. For more details, including criminal penalties if a minor obtains a person's firearm and uses it to injure someone, see the subsection on "Safe Storage of Firearms" in OLR Report [2013-R-0001](#).

SCHOOL SAFETY

New York Legislation

The act requires the governor to establish New York State school safety improvement teams to review, assess, and make recommendations on School Safety Plans submitted on a voluntary basis by school districts (with less than 125,000 people) and certain other entities. The teams include representatives from the education department and specified safety- and criminal justice-related agencies (§ 55).

The act also allows school districts that purchase certain approved security devices as part of their School Safety Plans to receive state building aid reimbursement at a rate 10% higher than their current building aid ratio (§ 56).

Connecticut Law

We were unable to find anything in Connecticut law directly comparable to these provisions of the New York act. Among other provisions related to school safety, Connecticut law allows school boards to establish school district safety committees to increase staff and student awareness of safety and health issues and review the adequacy of school emergency response procedures (CGS § [10-220f](#)). Parents and high school students must be included in the membership of the committees. The committees do not include state agency representation.

In 2007, Connecticut enacted a school security grant program for towns, but the program has expired (PA [07-1, June Special Session, § 21](#)). In 2007, the legislature also authorized \$5 million in bonds for grants for school security infrastructure. The bond commission has not allocated any of this money, and in 2010 the General Assembly canceled \$2 million of the authorization (PA [07-7, June Special Session, § 13 \(j\)\(6\)](#); (PA [10-44, § 309](#)).

MURDER OF FIRST RESPONDERS

New York Legislation

The act enacts “Mark’s Law,” which expands the crimes of murder in the first degree and aggravated murder to include the intentional murder of certain first responders. These crimes are Class A-1 felonies. The bill makes this type of aggravated murder punishable by life without parole. Murder in the first degree is punishable from 20 years to life without parole (§§ 33- 36).

Connecticut Law

One of the ways to commit murder with special circumstances is by murdering, while the victim was acting within the scope of his or her duties, a police officer, Division of Criminal Justice inspector, state marshal, judicial marshal, constable performing law enforcement duties, special policeman, conservation or special conservation officer appointed by the energy and environmental protection commissioner, firefighter, or Department of Correction employee or service provider acting within a correctional facility (the perpetrator must be an inmate). This crime is punishable by life in prison without the possibility of release (CGS § [53a-54b](#)).

Murder of other first responders could be prosecuted under the murder statute, a class A felony punishable by 25 to 60 years in prison (CGS § [53a-54a](#)).

CARRYING WEAPONS ON SCHOOL PROPERTY

New York Legislation

The act increases the penalty for possession of a weapon on school, college, or university grounds or on a school bus from a class A misdemeanor to a class E felony (punishable by up to four years in prison) (§§ 40-41).

Connecticut Law

It is illegal, with some exceptions, to possess firearms on any elementary or secondary school property or at any school-sponsored event knowing that one is not licensed or privileged to do so. A violation is a class D felony (CGS § [53a-217b](#)).

POSSESSION CRIMES

New York Legislation

The act creates the class E felony of criminal possession of a firearm. A person commits this crime by possessing a firearm or lawfully possessing a firearm before the effective date of the act's provisions requiring its registration, and knowingly failing to register the firearm (§ 41-a).

It creates the crime of aggravated criminal possession of a weapon, a Class C felony, which is committed by possessing a loaded firearm outside of the person's home or business while committing a violent felony or drug trafficking felony. The act designates it a class C violent felony offense, punishable by 5 to 15 years in prison (§§ 27, 29, and 45). The minimum mandatory sentence is 5 years.

The act expands the crime of criminal possession of a weapon in the third degree, a class D felony punishable by up to seven years in prison, to include possessing an unloaded firearm when committing a violent felony or drug trafficking felony. It designates these new additions as class D violent felony offenses. For those crimes involving a violent felony, the act sets the prison penalty as three and one-half to seven years. Other penalties may apply to this crime depending on the circumstances (§§ 26-a, 27-28, 30, and 41-b).

Connecticut Law

A number of crimes punish possession of firearms under different circumstances. Almost all of these crimes are class D felonies. CGS § [53-202j](#) also imposes a mandatory minimum eight-year sentence on anyone who uses, threatens to use, displays, or purports to have an assault weapon while committing a class A, B, or C felony. CGS § [53-202k](#) imposes a mandatory minimum five-year sentence on anyone who uses, threatens to use, displays, or purports to have a firearm other than an assault weapon while committing a class A, B, or C felony. In both cases, the sentence is in addition and consecutive to any imprisonment for the felony.

For more information see OLR Report [2013-R-0001](#).

REPORTING LOST OR STOLEN FIREARMS AND AMMUNITION

New York Legislation

As for existing law regarding thefts or loss of firearms, the act requires reports to law enforcement by (1) a person who loses or has ammunition stolen along with a firearm, rifle, or shotgun and (2) firearm dealer or ammunition seller who loses or has ammunition stolen. The report must occur within 24 hours of discovery of the loss or theft. The act also increases the penalty for failing to report to law enforcement from a fine of up to \$100 to a class A misdemeanor (§ 51).

Connecticut Law

Lawful owners of any lost or stolen firearm must file a police report within 72 hours after they discover or should have discovered the loss or theft. The report must be made to the local police department for the town in which the loss or theft occurred or the State Police troop having jurisdiction. The receiving department or troop must forward a copy of the report to the DESPP commissioner.

A first-time unintentional failure to report by the deadline is an infraction, punishable by a fine of up to \$90; a subsequent unintentional failure is a class D felony. Any intentional failure to report is a class C felony. The law specifies that a first-time violator does not lose the right to possess a gun permit (CGS § [53-202g](#)).

“STRAW MAN” CRIMES

New York Legislation

The act expands the crime of criminal purchase of a weapon for someone who cannot lawfully possess it to include other ways of disposing of a weapon to such a person. It increases the penalty for these crimes, as well as the penalty for someone who purchases a gun (1) knowing he or she cannot lawfully possess it or (2) on behalf of a prohibited person, from a Class A misdemeanor to a Class D felony (§ 43).

Connecticut Law

Table 1 shows the various crimes and penalties for “straw man” transactions in Connecticut.

Table 1: Penalties for “Straw Man” Transaction in Connecticut

Offense	Penalty	Statutory Cite
Buy firearm intending to transfer it to an ineligible person (straw man transactions)	Imprisonment for up to five years, fine of up to \$1,000, or both, except that if person was convicted of felony in the previous five years, it is a class D felony	§ 29-37j
Solicit firearm through straw man	Class B misdemeanor, punishable by up to six months in prison, a fine of up to \$1,000, or both (one firearm) Class A misdemeanor (more than one firearm and each violation is separate offense) Class D felony if the violator was convicted of a felony within the five years before the violation	§ 29-37j
Buy firearm intending to transfer it to ineligible person	Fine of up to \$1,000, imprisonment for up to five years, or both; Class D felony if the violator was convicted of a felony in the five years before the violation	§ 29-37j(a)
Knowingly or intentionally causing firearms (excluding long guns) to come into the possession of an ineligible person	Class C felony for five or fewer firearms; Class B felony for more than five	§ 53-202aa

ASSAULT

New York Legislation

The act expands the crime of assault in the second degree to include recklessly causing physical injury to someone under age 18 by intentionally discharging a firearm, rifle, or shotgun. This crime is a class D felony (§ 32).

Connecticut Law

While Connecticut’s assault statutes may cover this conduct, it does not appear that any of the assault crimes specifically cover all of the elements of the new crime created by the New York act (see CGS § [53a-59](#) et seq.).

OTHER CRIMINAL PENALTY CHANGES

New York Legislation

The act creates the crime of aggravated enterprise corruption, when members of the enterprise commit certain combinations of armed or violent offenses. The crime is punishable as a class A-1 felony (§ 52).

The act adds to conduct considered “criminal facilitation” making available, selling, exchanging, giving, or disposing of a community gun that aids a person in committing a crime. A “community gun” is one shared by several people at least one of whom is not authorized to possess it. “Criminal facilitation” is punishable in four degrees with penalties ranging from a class A misdemeanor to a class B felony (punishable by up to 25 years in prison) depending on the conduct involved (§ 31).

Connecticut Law

It is unclear which crimes are directly comparable to the New York act. A number of criminal laws may apply such as conspiracy to commit a crime and violations of the corrupt organizations and racketeering activity act (CORA). CORA violations are punishable by one to 20 years in prison, a fine of up to \$25,000, or both (CGS § [53-393](#) et seq.).

The law also makes someone criminally liable for another’s conduct when he or she sells, delivers, or provides a firearm to another to engage in an offense knowing or under circumstances in which he or she should know that the person intends to use the firearm to commit an offense. In this situation, the person providing the firearm can be prosecuted as if he or she were the principal offender (CGS § [53a-8](#)).

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